



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** September 30, 2008

**TO:** Mayor and Councilmembers

**FROM:** Housing and Redevelopment Division, Community Development Department

**SUBJECT:** Introduction Of Ordinance Amending The City's Inclusionary Housing Ordinance

### RECOMMENDATION:

That Council approve revisions to the City's Inclusionary Housing Ordinance, and introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Title 28 of the Municipal Code to Revise Chapter 28.43 With Respect to Expanded Inclusionary Housing Requirements for Smaller Residential Projects Approved for Construction Within the City.

### DISCUSSION:

On June 24, 2008, Council reviewed possible changes to the City's Inclusionary Housing Ordinance ("Ordinance") and approved a number of amendments to be forwarded to the Ordinance Committee for consideration. These amendments are summarized in section A below. On July 29, 2008, the Council Ordinance Committee reviewed, edited and approved draft revisions to the Ordinance text to implement these changes. The Ordinance Committee also recommended a few related changes, discussed in section B below in response to comments from members of the public.

#### **A. Changes Approved in Concept by Council in June:**

1. Lower the Threshold from 10-or-More Units to 2-or-More Units: Council approved in concept revisions which would have the Ordinance apply to all ownership housing projects of 2 or more units, rather than the current threshold of 10 or more units. The required inclusionary percentage for projects of 2 through 9 units would be 5%. Projects of 2 through 9 units would also *not* be required to provide an inclusionary unit, but instead could pay a pro-rated in-lieu fee. There would be no entitlement to a density bonus unit from application of the Inclusionary Ordinance to projects under 10 units.

2. Change the Method of Calculating the In-Lieu Fee: Council approved in concept a change to the in-lieu fee calculation in order to bring the fee more in-line with the amount of the fee exacted at the time the original Ordinance was adopted. Currently the fee is calculated as the difference between the development cost of a 2-bedroom condominium in the City and the maximum sale price of a *low-income* affordable unit.

Council suggested that the words "low-income" be changed to "*moderate-income*." This revision would result in an in-lieu fee of \$354,000 per required inclusionary unit, rather than the current fee of \$473,300. This fee would be pro-rated for fractions of a required inclusionary unit. For projects of 2 through 9 units, the 5% requirement will result in an in-lieu fee of \$17,700 per market-rate unit.

3. Expand the permissible uses of collected in-lieu fees. Council conceptually approved expanding the allowable uses for collected in-lieu fees to include the following:

- The City's purchase and resale of middle and upper middle income affordable units that are in default in order to preserve the long-term affordability of such units.
- For the City to subsidize the creation of affordable middle and upper-middle housing.
- For the City's costs of ensuring the compliance by the sellers and buyers of middle and upper-middle affordable housing with the City's Affordable Housing Policies and Procedures. Note: the Ordinance already permits in-lieu fees to be used "to cover reasonable administrative or related expenses associated with the administration of this Section." Therefore, this third bulleted item is more of a clarification than an expansion of permissible uses.

4. Change the payment due date for in-lieu fees for projects of 2 through 4 units to "prior to occupancy" rather than "prior to the building permit" in order to lessen the financial impact on these small projects.

5. Eliminate the general reference to a lot-area modification. Under the Inclusionary Ordinance, all required inclusionary units receive a density bonus by entitlement. Because the increased number of units allowed on the site is mandated by the Ordinance, no lot area modification is required.

## **B. Changes Recommended by Ordinance Committee in July:**

As previously noted, the Ordinance Committee reviewed and approved revised ordinance language that implemented the changes discussed above. In addition, the Committee recommended that Council adopt three related provisions. The first reduces the in-lieu fee for smaller projects, the second exempts projects that voluntarily provide a high percentage of upper-middle income affordable units, and the third concerns which projects currently in the development review process will be affected by the Ordinance changes.

1. In new construction projects of 2 through 4 units, exempt the first unit from the in-lieu fee requirement. The Ordinance Committee discussed the common situation with smaller developments where there is an existing house on the lot and a request to add more units, or where there is a vacant lot to be subdivided where there is already the right under zoning to build a single unit. The Committee agreed that, for projects of two through four units, the first unit should not be counted in determining the required in-lieu fee. The Committee agreed that this exemption should be limited to new construction

projects, and thus should not apply to condo-conversion projects or to residential land subdivisions into individual lots.

The following table shows the reduced in-lieu fees that would result from this change:

In-Lieu Fee for New-Construction Projects of 2-9 Units			
Number of Units in Project	Number of Units Counted for In-Lieu Calculation	Calculation: 5% of \$354,000 per counted unit	Pro-Rated In-Lieu Fee
2	1	1 x \$17,700 =	<b>\$17,700</b>
3	2	2 x \$17,700 =	<b>\$35,400</b>
4	3	3 x \$17,700 =	<b>\$53,100</b>
5	5	5 x \$17,700 =	\$88,500
6	6	6 x \$17,700 =	\$106,200
7	7	7 x \$17,700 =	\$123,900
8	8	8 x \$17,700 =	\$141,600
9	9	9 x \$17,700 =	\$159,300

For condo conversion projects and land subdivisions, the fee would remain at \$17,700 per converted unit or lot, even for projects of 2 through 4 units.

2. Exempt projects that provide upper-middle income affordable units: Projects of any size that provide at least 30 percent of the units as affordable upper-middle income units which are deed restricted in accordance with the City's affordable housing policies shall be exempt from the inclusionary requirements and in-lieu fees of the Ordinance. Such upper-middle income units would need to meet the construction standards for inclusionary units as specified in the Ordinance. Note: middle income units (required by the ordinance) are currently priced at \$250,000 for 2-bedroom units, while upper-middle income units are currently priced at \$350,000 for 2-bedroom units.

This change was in response to feedback from employers who might wish to develop employee housing for their employees who earn up to 200% of area median income (although the proposed change would apply to any developers, not just employers/developers). For example, a 14 unit project would normally have to provide 2 inclusionary units for middle income buyers. This change would exempt the project from the Ordinance if the project provided 4 units for upper-middle income buyers. There would be no density bonus by right for these upper-middle income units.

3. Apply the new requirements only to those projects which receive a tentative map approval after the adoption of the revised Ordinance: At the meeting of the Ordinance Committee, the City Attorney presented the following two options for determining which projects that are currently in the development review process would be subject to the changes in the Ordinance:

Option One: Apply to all projects which have yet to receive tentative map approval (as of the date of adoption of the revised Ordinance); or,

Option Two: Apply to all projects which have yet to have their applications deemed complete.

The Ordinance Committee voted to recommend that Council adopt Option One, because this would result in a greater number of pending projects being subject to the changes than would Option Two.

**Draft Revised Ordinance:**

The City Attorney's Office has drafted proposed revisions of the Ordinance in order to implement the changes described above. This draft of the revised Ordinance is red-lined to show the changes from the current Ordinance, and is attached.

**CONCLUSION:**

Council is requested to hear comments from interested members of the public, review and approve the attached draft of the revised Ordinance drafted to implement the changes described above, and introduce the revised Ordinance for subsequent adoption.

**ATTACHMENT:** Draft Revised Inclusionary Housing Ordinance

**PREPARED BY:** Steven Faulstich, Housing Programs Supervisor;  
David K. Gustafson, Asst. Community Development Director/  
Housing and Redevelopment Manager

**SUBMITTED BY:** Paul Casey, Community Development Director

**APPROVED BY:** City Administrator's Office